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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/698,149	10/30/00	YEUNG D	APV 30271CIP

EXAMINER

IM52/0724

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ART UNIT	PAPER NUMBER
1711	5

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/698,149	Applicant(s) Yeung et al
	Examiner Olga Asinovsky	Art Unit 1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *three* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Oct 30, 2000* .

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-47* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims *1-47* are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-24 are drawn to a block polymer comprising one or more cationic group-containing units, and optionally one or more additional building block units; provided that the block polymer has an average cationic charge density of about 15 or less, classified in class 524, subclass 762 and class 526, subclass 320.

II. Claims 25-30 are drawn to a method for cleaning hair or skin comprising applying an effective amount of a cleaning composition comprising the polymer of Claim 1 and at least one detersive surfactant to hair or skin in needs of cleaning, provided that a 10% aqueous solution of said composition has a pH from about 4 to about 9, classified in class 424, subclass 70.1.

Claims 31-33 are drawn to a composition for cleaning hair or skin comprising the block polymer of Claim 1, at least one detersive surfactant, and at least one member of the group consisting of a pearlizing agent, a silicon hair conditioning agent, and an antidandruff ingredient, provided that a 10% aqueous solution of said composition has a pH from about 4 to about 12, classified in class 424, subclass 70.12.

III. Claims 34-38 are drawn to a method for washing a fabric article in a washing medium comprising: applying an effective amount of a laundry detergent cleaning composition comprising the polymer of claim 1 and at least one detergent surfactant to a fabric article in needs of cleaning, classified in class 510, subclass 352.

Claim 39, drawn to a composition for washing a fabric article comprising: the polymer of claim 1, at least one detergent surfactant, and at least one member of the group consisting of an aminosilicone, a Gemini surfactant, a detergency builder, a bleach, an activator for per compound bleach, a soil suspending agent, a soil antiredeposition agent, a foam suppressant agent and a fabric softener, classified in class 510, subclass 517.

IV. Claim 40, drawn to a method for extinguishing fire comprising applying a foam to a fire, wherein the foam comprises a foaming agent and a polymer of claim 1, classified in class 252, subclass 2+3.

V. Claim 41, drawn to a method for treating at least one agricultural substrate selected from the group consisting of plants, seeds and soil comprising applying to the substrate a foam comprising at least one agricultural chemical selected from the group consisting of a herbicide, a pesticide, and a fungicide, a foaming agent and a polymer of claim 1, classified in class 424, subclass 405.

VI. Claim 42, drawn to a method comprising injecting into a subterranean formation, a foam comprising a foaming agent and a polymer of claim 1, classified in class 523, subclass 130.

VII. Claim 43-44 are drawn to a method comprising shaving hair from skin comprising applying foam shaving cream to the skin, said shaving cream comprising a foaming agent and a polymer of claim 1, classified in class 424, subclass 70.27.

VIII. Claim 45, drawn to a method for removing hair from skin comprising applying a dephiliatory foam to skin, said foam comprising a foaming agent and a block polymer of claim 1, classified in class 424, subclass 73.

IX. Claim 46, drawn to a method of cleaning hard bathroom surfaces comprising applying to a said surface a foam cleaner comprising a foaming agent and a polymer of claim 1, classified in class 510, subclass 531.

X. Claim 47, drawn to a process for making paper comprising aiding retention of titanium dioxide on the paper during the paper making comprising treating the paper with an aqueous solution comprising titanium dioxide and a polymer of claim 1, classified in class 162, subclass 164,1+.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Groups II-X are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the

intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as for formulation a latex for a paint composition and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicants should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. Inventions of Groups II and of Groups III-X are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions, different modes of operation and different effects. A block polymer of claim 1 can be used for formulation different compositions having different utilities and by applying different methods of using. For instance, a composition for cleaning hair or skin requires at least one detersive surfactant to be present, whereas a composition for making a paper does not require a said detersive surfactant. A method for washing a fabric is different from a method for extinguishing fire, or for treating an agricultural substrate. Therefore, the composition useful in one art area would not likely be useful under the same conditions in the other areas.

4. Inventions of Groups III and each of Groups IV-X are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

ELECTION OF SPECIES

7. This application contains claims directed to the following patentably distinct species of the claimed invention:

(I) Claims 1-8 and 11-24 have different species for nitrogen-containing cationic units of the formulas in claim 9.

(II) Claims 1-9 and 11-24 have different monomeric units in the block polymer in claim 10.

(III) Claims 1-11 and 13-23 have block polymer consisting of monomeric units A, B and C in claim 12.

This application contains claims directed to more than one species.

The species are as follows:

(I) Different species for nitrogen-containing cationic units of the formulas in Claim 9.

(II) Monomeric units in the block polymer in Claim 10.

(III) Block polymer consisting of monomeric units A, B and C in Claim 12.

(The different species for nitrogen-containing cationic units, different monomeric units in the block polymer can be present in each of these Groups. Their presence reflects the separate status of each distinct dependency.)

Applicants are required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Currently, the following claims 1 and 11 are generic.

Applicants are advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the

limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicants must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicants should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. A telephone call was made to Anthony Venturino on July 05, 2001 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors are no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

10. The present case is a continuation in part of U.S. Application/Control Number: 09/318,942, filed May 26, 1999. There is no preliminary amendment in the present case.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Asinovsky whose telephone number is (703) 308-0041. The examiner can normally be reached on Monday to Friday from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

O.A. Olga Asinovsky

OA

July 13, 2001